

MEMO IN RE MUDDY CREEK DIST.

A field examination by the State Engineer on June 2, 1927, indicated that provisions for correct distribution of the water under the decree at the present time do not exist and all the water in Muddy Creek is being diverted into the Emery Canal except when interfered with by the agents of the Independant Canal. This total flow in the Emery Canal is measured at a weir some distance down from the point of diversion and below this a dividing device was installed which was supposed to cut out from this total flow the 1/16 of said flow to which, under the terms of the decree, the Independant Canal was entitled. The former measuring device of the Independant Canal Company is entirely filled up with gravel and wholly incooperative.

By having an adequate dividing device the 1/16 flow to which the Independant Canal is entitled could be assured to them but this would not take care of the additional complication caused by the ownership of certain storage rights in certain reservoirs of the Independant Canal Company. If water from these reservoirs was turned down and formed part of the total flow diverted by the Emery Canal it is plain that with the dividing device, above outlined, 15/16 of this reservoir supply would go to the Emery users who are not entitled to any of it. For this reason it is necessary that a proper measuring device be installed by the Independant Canal. In order to take care of the situation temporarily and avoid a great expense in cleaning out the old weir of the Independant Canal the Independant Canal Company was instructed to install a cheap weir just below the dividing device and the Emery Canal which has put in a dividing device. By means of a movable panel considerably more than 1/16 of the flow could be cut out through the Independant Canal.

The practical operation would then be for the Independant Canal people to advise the water commissioner as to the amount which they were turning out from their storage reservoir said amount, of course, to be determined by measurement taken through a proper measuring device at the reservoir. The water commissioner would then have to adjust the dividing device and compare the measurements at the Emery and Independant weirs so that the amount flowing over the Independant weir equaled 1/16 of the total normal flow plus the measured amount of the flow of stored water. By having the Independant weir close to the dividing device the practical operation of this method would not be difficult.

The field inspection offered no opportunity to check up on the actual legal requirements of the Emery Canal as defined by the statutory limit of beneficial use. This is a matter which, if done properly, requires not only a field survey but probably an examination of such records as were available at the time of the making of the decree; in other words an adjudication of water rights under the present adjudication law would be required.

John M. Bacon
State Engineer.